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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 56, 253d, 422 of this title; title 15 section 637; title 10 sections 2321, 2836; title 25 sections 450k, 450m-1; title 28 sections 2401, 2412, 2414, 2517; title 31 section 3907; title 35 section 203; title 40 section 759.

§ 601. Definitions

As used in this chapter—

(1) the term “agency head” means the head and any assistant head of an executive agency, and may “upon the designation by” the head of an executive agency include the chief official of any principal division of the agency;

(2) the term “executive agency” means an executive department as defined in section 101 of title 5, an independent establishment as defined by section 104 of title 5 (except that it shall not include the General Accounting Office), a military department as defined by section 102 of title 5, and a wholly owned Government corporation as defined by section 9101(3) of title 31, the United States Postal Service, and the Postal Rate Commission;

(3) The¹ term “contracting officer” means any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto. The term also includes the authorized representative of the contracting officer, acting within the limits of his authority;

(4) the term “contractor” means a party to a Government contract other than the Government;

(5) The¹ term “Administrator” means the Administrator for Federal Procurement Policy appointed pursuant to the Office of Federal Procurement Policy Act [41 U.S.C. 401 et seq.];

(6) The¹ term “agency board” means an agency board of contract appeals established under section 607 of this title; and

(7) The¹ term “misrepresentation of fact” means a false statement of substantive fact, or any conduct which leads to a belief of a sub-

stantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

(Pub. L. 95-563, § 2, Nov. 1, 1978, 92 Stat. 2383.)

REFERENCES IN TEXT

This chapter, referred to in text preceding par. (1), was in the original “this Act”, meaning Pub. L. 95-563, which enacted this chapter, amended section 5108 of Title 5, Government Organization and Employees, section 1346, 1491, 2401, 2414, 2510, and 2517 of Title 28, Judiciary and Judicial Procedure, and section 724a of former Title 31, Money and Finance, and enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Office of Federal Procurement Policy Act, referred to in par. (5), is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§ 401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

In par. (2), “section 9101(3) of title 31” substituted for “section 846 of title 31, United States Code” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

EFFECTIVE DATE

Section 16 of Pub. L. 95-563 provided that: “This Act [see Short Title note below] shall apply to contracts entered into one hundred twenty days after the date of enactment [Nov. 1, 1978]. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then before the contracting officer or initiated thereafter.”

SHORT TITLE

Section 1 of Pub. L. 95-563 provided: “That this Act [enacting this chapter, amending section 5108 of Title 5, Government Organization and Employees, sections 1346, 1491, 2401, 2414, 2510, and 2517 of Title 28, Judiciary and Judicial Procedure, and section 724a of former Title 31, Money and Finance, and enacting provisions set out above] may be cited as the ‘Contract Disputes Act of 1978’.”

§ 602. Applicability of law

(a) Executive agency contracts

Unless otherwise specifically provided herein, this chapter applies to any express or implied contract (including those of the nonappropriated fund activities described in sections 1346 and 1491 of title 28) entered into by an executive agency for—

- (1) the procurement of property, other than real property in being;
- (2) the procurement of services;
- (3) the procurement of construction, alteration, repair or maintenance of real property; or,
- (4) the disposal of personal property.

(b) Tennessee Valley Authority contracts

With respect to contracts of the Tennessee Valley Authority, the provisions of this chapter shall apply only to those contracts which contain a disputes clause requiring that a contract dispute be resolved through an agency administrative process. Notwithstanding any other provision of this chapter, contracts of the Ten-

¹ So in original. Probably should not be capitalized.